

**BOARD OF APPEALS CASE NO. 5110**

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**BEFORE THE**

**APPLICANT: Andy Do**

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**ZONING HEARING EXAMINER**

**REQUEST: Enlargement of a non-conforming structure for an existing addition to the mobile home; 3914 Philadelphia Road, Abingdon**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 12/20/00 & 12/27/00**

**HEARING DATE: January 24, 2001**

**Record: 12/22/00 & 12/29/00**

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## **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Andy Do, is seeking a variance, pursuant to Section 267-21 of the Harford County Code, to allow enlargement of a non-conforming structure by allowing an existing addition on a mobile home in a R1/Urban Residential District.

Mr. Andy Do appeared as the Applicant in this case. Mr. Do stated that he is the owner of the property. Mr. Do stated that the addition and mobile home were located on the property when he purchased. The area to the rear of the mobile home is wetland area and cannot be built upon. Mr. Do stated that the mobile home and addition have been there for many years and a mobile home was approved for this lot in 1967. Mr. Do agreed with all of the findings of fact as stated by the Department of Planning and Zoning in its Staff Report dated January 17, 2001.

None of the testimony of the Applicant or the Department was subject to rebuttal. There were no protestants present in opposition to the request. The Hearing Examiner adopts the findings of fact as set forth by the Department of Planning and Zoning which states:

“The Applicant is seeking a variance to enlarge an existing non-conforming use in an R1/Urban Residential District to allow an existing mobile home and addition to the rear of the mobile home to remain in its present location. The Code requires a minimum rear yard setback of 50 feet; 23 feet exists for the mobile home and 13 feet in the area of the enclosed deck. The mobile home was not located as approved by Permit No. 465-80 in 1979, and the present violation was not discovered for 21 years.

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### **Section 267-21:**

**Enlargement or extension of nonconforming buildings, structures or uses.**

***The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions, provided that:***

**A. *The proposed extension or enlargement does not change to a less-restricted and more-intense use.***

**No change of use will occur as a result of this request.**

**B. *The enlargement or extension does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the nonconformity***

**The mobile home is 14 x 70 feet, which is a total of 980 square feet. The addition is 10 x 24 feet or 240 square feet, which is less than 50% of the gross square footage of the non-conforming use.**

**C. *The enlargement or extension does not violate the height or coverage regulations for the district.***

**The existing mobile home and addition does not violate the height or coverage requirements for the R1/Urban Residential District.**

**The coverage issue under the Critical Area requirements have been addressed. The Applicant has chosen to mitigate and agreed to plant thirteen (13) trees and four (4) shrubs.**

**B. *The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood***

**The mobile home sits approximately 175 feet back from the road and will have no impact on traffic. The adjacent property is a large pasture field. The request will not adversely affect this property.**

**F. *The limitations, guides and standards set forth in Section 267-9I, Limitations, Guides and Standards, are considered by the Board.***

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The following portion of the report will be a review of Section 267-91.

### **Section 267-91:**

*(1) The number of persons living or working in the immediate area.*

The request will not impact the citizens living in the surrounding neighborhood.

*(2) Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

The request will have no impact on vehicular and pedestrian traffic.

*(3) The orderly growth of the neighborhood and community and the fiscal impact on the County*

While the mobile home is non-conforming to present standards, this use was approved by the Board in 1967 and the present mobile home was approved by permit in 1979. The request will not have any adverse impact on the orderly growth of the neighborhood.

*(4) The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

This section is not applicable to the request.

*(5) Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.*

The Sheriff's Department and the Maryland State Police will provide police protection. The Abingdon Volunteer Fire Department will provide primary fire protection. A private on-site septic system and well provides water and sewer to the existing uses on the property. The Applicant must obtain a private hauler to dispose of trash.

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- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

Mobile homes would not be permitted in an R1/Urban Residential District. However, the subject unit was located on the subject property when the property was zoned A1/Agricultural. The structure is also non-conforming to the required setbacks for the R1/Urban Residential District. The present location of the home is partially due to Health Department requirements for locating the well and septic system.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

Not applicable to the request.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for/and use, roads, parks, schools, sewers, water, population, recreation and the like.*

The Master Plan recognizes non-conforming structures and uses, and the need to occasionally improve and expand said uses. This is provided that the structures and uses do not create an adverse impact on the surrounding communities.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

The environmental issues will be addressed through the Chesapeake Bay Critical Area requirements and the floodplain requirements of the Code.

- (10) *The preservation of cultural and historic landmarks.*

Not applicable to this report.

The Department finds that the Applicant can adequately justify the request pursuant to Section 267-il of the Harford County Code. The mobile home has been in this location since it was originally approved by the Board in 1967 and replaced in 1979 without having an adverse impact on the adjacent properties.”

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**CONCLUSION:**

The Applicant has met all of the requirements of Section 267-21 of the Harford County Code. The mobile home has existed at this location since 1967 and the addition at least since 1979 without adverse impact to adjacent or neighboring properties.

The Hearing Examiner recommends approval of the Applicant's request, subject to the condition that no further enlargements are made to this structure and that the Applicant obtain any and all necessary permits and inspections.

Date     FEBRUARY 12, 2001

William F. Casey  
Zoning Hearing Examiner